THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

DATED: 18-11-2005

WRIT PETITION No.24616 OF 2005

Between:

Ch.Bhoga Raju . . .Petitioner

And

The District Collector, Eluru, and another . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.24616 OF 2005

O R D E R:

The petitioner claims to be the owner of the land in Survey Nos.206/1 and 208/3 of Thokalapalli Village of Nidamarru Mandal, West Godavari District. He states that he has developed fish tanks in the said land and constructed a building in part of it, which is being used partly for residence and partly for storing the farm material. The petitioner alleges that the respondents are trying to demolish the building without following the procedure prescribed by law. The writ petition came up for admission yesterday. The learned Government Pleader was directed to obtain instructions by today.

Sri C.Ramachandra Raju, learned counsel for the petitioner, submits that the respondents cannot proceed against the building without following the procedure prescribed by law.

Learned Government Pleader for Revenue, on instructions, submits that the petitioner has developed fish tanks over an area of Ac.32-00 in Survey Nos.206 and 208, but has constructed the building in the drain poramboke in R.S.No.209. It is also stated that the Government has undertaken various steps to clear the encroachments in and around the Kolleru reservoir and in the process, the petitioner was sought to be served with a notice, dated 04-11-2005, by the Department of Drains and a notice, dated 02-11-2005, by the Forest Department. He states that when the petitioner refused to receive them, they were affixed on the door.

If the petitioner has constructed the house in his own land in Survey Nos.206 and 208, the respondents are under obligation to put him on notice, before any action is taken for demolition of the same, duly pointing out the nature of violations. On the other hand, if the building is constructed in a Government land identified as drain poramboke, no such steps need be taken except that the petitioner be permitted to remove the articles. Even after such demolition, if

it emerges that the building was in private land of the petitioner, he shall be entitled to be compensated adequately. As of now, the matter is not clear.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing that in case, the building is found in Survey Nos.206 and 208 of Thokalapalli Village, the respondents shall serve a copy of the notice, once again, to the petitioner. On the other hand, if it is found in the Government land, the petitioner shall be given adequate opportunity to remove the valuable things from the building and thereafter, proceed to remove the encroachment. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

18th NOVEMBER, 2005.

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